

AMENDED IN ASSEMBLY JUNE 11, 2014

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE APRIL 29, 2014

SENATE BILL

No. 1136

Introduced by Senators Huff and Mitchell

(Coauthors: Senators Leno and Wolk)

(Coauthors: Assembly Members Chávez, Gorell, Olsen, and
Wieckowski)

February 20, 2014

An act to amend Sections 1522 and 1522.08 of the Health and Safety Code, to amend Sections 11105.2 and 11170 of the Penal Code, and to amend Section 16504.5 of, and to add Section 16504.7 to, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1136, as amended, Huff. Foster care providers: criminal records.

Existing law requires the State Department of Social Services to license and regulate community care facilities, including foster family homes, certified family homes of licensed foster family agencies, and group homes. Existing law requires that persons providing care or services at these homes or facilities obtain either a criminal record clearance or an exemption from disqualification from the department, as prescribed.

Existing law authorizes a child welfare agency to secure from an appropriate governmental criminal justice agency the state summary criminal history information for specified purposes, including an assessment of the appropriateness of placing a child subject to the jurisdiction of the juvenile court with a relative or nonrelative extended

family member. Existing law also ~~authorizes~~ *requires* the Department of Justice to provide information contained in the Child Abuse Central Index to the State Department of Social Services, or to any county licensing agency that has contracted with the state for the performance of licensing duties.

This bill would authorize the State Department of Social Services to share summary information related to a criminal record clearance or exemption granted by the department with a county child welfare agency with responsibility to monitor the health and safety of persons receiving care, treatment, or services from state-licensed foster homes, certified homes of licensed foster family agencies, and employees of those agencies, and licensed group homes. The bill would allow the State Department of Social Services and county child welfare agencies to share information with respect to applicants, licensees, certificates, or individuals who have been the subject of any administrative action resulting in the denial, *suspension*, *probation*, or revocation of a license, *permit*, or *certificate*, or in the exclusion of a person from a facility who is subject to a background check.

The bill would require the State Department of Social Services to provide to a county child welfare agency a list of each person who has received a criminal records exemption related to a licensed or certified foster ~~home~~ *home*, so that the county may assess the appropriateness and safety of placing a child in the foster home with which the individual is associated. The bill would further authorize a county child welfare agency to receive ~~state-summary~~ *state summary* criminal history information for purposes of assessing the appropriateness and safety of placing a child who has been detained or is a dependent of the court in a ~~licensed foster family home, group home, or state-licensed foster home;~~ *state-licensed foster home, a certified home of a licensed foster family agency, or a licensed group home*. The bill would authorize a county child welfare agency to submit to the Department of Justice fingerprint images and related information of an individual who has received a criminal record exemption, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and arrests, as specified.

The bill would authorize the Department of Justice to provide subsequent state or federal arrest or disposition notification to any entity authorized by state or federal law to receive state or federal summary criminal history information to assist in fulfilling duties of placing a child in a ~~licensed foster family home, group home, or state-licensed~~

~~foster home~~; *state-licensed foster home, a certified home of a licensed foster family agency, or a licensed group home.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1522 of the Health and Safety Code is
2 amended to read:

3 1522. The Legislature recognizes the need to generate timely
4 and accurate positive fingerprint identification of applicants as a
5 condition of issuing licenses, permits, or certificates of approval
6 for persons to operate or provide direct care services in a
7 community care facility, foster family home, or a certified family
8 home of a licensed foster family agency, and to assess the
9 appropriateness ~~and safety~~ of placing specific children in those
10 homes and facilities. Therefore, the Legislature supports the use
11 of the fingerprint live-scan technology, as identified in the
12 long-range plan of the Department of Justice for fully automating
13 the processing of fingerprints and other data by the year 1999,
14 otherwise known as the California Crime Information Intelligence
15 System (CAL-CII), to be used for applicant fingerprints. It is the
16 intent of the Legislature in enacting this section to require the
17 fingerprints of those individuals whose contact with community
18 care clients may pose a risk to the clients' health and safety. An
19 individual shall be required to obtain either a criminal record
20 clearance or a criminal record exemption from the State Department
21 of Social Services before his or her initial presence in a community
22 care facility.

23 (a) (1) Before issuing a license or special permit to any person
24 or persons to operate or manage a community care facility, the
25 State Department of Social Services shall secure from an
26 appropriate law enforcement agency a criminal record to determine
27 whether the applicant or any other person specified in subdivision
28 (b) has ever been convicted of a crime other than a minor traffic
29 violation or arrested for any crime specified in Section 290 of the
30 Penal Code, for violating Section 245 or 273.5, of the Penal Code,
31 subdivision (b) of Section 273a of the Penal Code, or, prior to
32 January 1, 1994, paragraph (2) of Section 273a of the Penal Code,
33 or for any crime for which the department cannot grant an

1 exemption if the person was convicted and the person has not been
2 exonerated.

3 (2) The criminal history information shall include the full
4 criminal record, if any, of those persons, and subsequent arrest
5 information pursuant to Section 11105.2 of the Penal Code.

6 (3) Except during the 2003–04 to the 2014–15 fiscal years,
7 inclusive, neither the Department of Justice nor the State
8 Department of Social Services may charge a fee for the
9 fingerprinting of an applicant for a license or special permit to
10 operate a facility providing nonmedical board, room, and care for
11 six or less children or for obtaining a criminal record of the
12 applicant pursuant to this section.

13 (4) The following shall apply to the criminal record information:

14 (A) If the State Department of Social Services finds that the
15 applicant, or any other person specified in subdivision (b), has
16 been convicted of a crime other than a minor traffic violation, the
17 application shall be denied, unless the director grants an exemption
18 pursuant to subdivision (g).

19 (B) If the State Department of Social Services finds that the
20 applicant, or any other person specified in subdivision (b) is
21 awaiting trial for a crime other than a minor traffic violation, the
22 State Department of Social Services may cease processing the
23 application until the conclusion of the trial.

24 (C) If no criminal record information has been recorded, the
25 Department of Justice shall provide the applicant and the State
26 Department of Social Services with a statement of that fact.

27 (D) If the State Department of Social Services finds after
28 licensure that the licensee, or any other person specified in
29 paragraph (1) of subdivision (b), has been convicted of a crime
30 other than a minor traffic violation, the license may be revoked,
31 unless the director grants an exemption pursuant to subdivision
32 (g).

33 (E) An applicant and any other person specified in subdivision
34 (b) shall submit fingerprint images and related information to the
35 Department of Justice for the purpose of searching the criminal
36 records of the Federal Bureau of Investigation, in addition to the
37 criminal records search required by this subdivision. If an applicant
38 and all other persons described in subdivision (b) meet all of the
39 conditions for licensure, except receipt of the Federal Bureau of
40 Investigation's criminal offender record information search

1 response for the applicant or any of the persons described in
2 subdivision (b), the department may issue a license if the applicant
3 and each person described in subdivision (b) has signed and
4 submitted a statement that he or she has never been convicted of
5 a crime in the United States, other than a traffic infraction, as
6 prescribed in paragraph (1) of subdivision (a) of Section 42001 of
7 the Vehicle Code. If, after licensure, the department determines
8 that the licensee or any other person specified in subdivision (b)
9 has a criminal record, the license may be revoked pursuant to
10 Section 1550. The department may also suspend the license
11 pending an administrative hearing pursuant to Section 1550.5.

12 (F) The State Department of Social Services shall develop
13 procedures to provide the individual's state and federal criminal
14 history information with the written notification of his or her
15 exemption denial or revocation based on the criminal record.
16 Receipt of the criminal history information shall be optional on
17 the part of the individual, as set forth in the agency's procedures.
18 The procedure shall protect the confidentiality and privacy of the
19 individual's record, and the criminal history information shall not
20 be made available to the employer.

21 (G) Notwithstanding any other law, the department is authorized
22 to provide an individual with a copy of his or her state or federal
23 level criminal offender record information search response as
24 provided to that department by the Department of Justice if the
25 department has denied a criminal background clearance based on
26 this information and the individual makes a written request to the
27 department for a copy specifying an address to which it is to be
28 sent. The state or federal level criminal offender record information
29 search response shall not be modified or altered from its form or
30 content as provided by the Department of Justice and shall be
31 provided to the address specified by the individual in his or her
32 written request. The department shall retain a copy of the
33 individual's written request and the response and date provided.

34 (b) (1) In addition to the applicant, this section shall be
35 applicable to criminal convictions of the following persons:

36 (A) Adults responsible for administration or direct supervision
37 of staff.

38 (B) Any person, other than a client, residing in the facility.

39 (C) Any person who provides client assistance in dressing,
40 grooming, bathing, or personal hygiene. Any nurse assistant or

1 home health aide meeting the requirements of Section 1338.5 or
2 1736.6, respectively, who is not employed, retained, or contracted
3 by the licensee, and who has been certified or recertified on or
4 after July 1, 1998, shall be deemed to meet the criminal record
5 clearance requirements of this section. A certified nurse assistant
6 and certified home health aide who will be providing client
7 assistance and who falls under this exemption shall provide one
8 copy of his or her current certification, prior to providing care, to
9 the community care facility. The facility shall maintain the copy
10 of the certification on file as long as care is being provided by the
11 certified nurse assistant or certified home health aide at the facility.
12 Nothing in this paragraph restricts the right of the department to
13 exclude a certified nurse assistant or certified home health aide
14 from a licensed community care facility pursuant to Section 1558.

15 (D) Any staff person, volunteer, or employee who has contact
16 with the clients.

17 (E) If the applicant is a firm, partnership, association, or
18 corporation, the chief executive officer or other person serving in
19 like capacity.

20 (F) Additional officers of the governing body of the applicant,
21 or other persons with a financial interest in the applicant, as
22 determined necessary by the department by regulation. The criteria
23 used in the development of these regulations shall be based on the
24 person's capability to exercise substantial influence over the
25 operation of the facility.

26 (2) The following persons are exempt from the requirements
27 applicable under paragraph (1):

28 (A) A medical professional as defined in department regulations
29 who holds a valid license or certification from the person's
30 governing California medical care regulatory entity and who is
31 not employed, retained, or contracted by the licensee if all of the
32 following apply:

33 (i) The criminal record of the person has been cleared as a
34 condition of licensure or certification by the person's governing
35 California medical care regulatory entity.

36 (ii) The person is providing time-limited specialized clinical
37 care or services.

38 (iii) The person is providing care or services within the person's
39 scope of practice.

1 (iv) The person is not a community care facility licensee or an
2 employee of the facility.

3 (B) A third-party repair person or similar retained contractor if
4 all of the following apply:

5 (i) The person is hired for a defined, time-limited job.

6 (ii) The person is not left alone with clients.

7 (iii) When clients are present in the room in which the repair
8 person or contractor is working, a staff person who has a criminal
9 record clearance or exemption is also present.

10 (C) Employees of a licensed home health agency and other
11 members of licensed hospice interdisciplinary teams who have a
12 contract with a client or resident of the facility and are in the
13 facility at the request of that client or resident's legal
14 decisionmaker. The exemption does not apply to a person who is
15 a community care facility licensee or an employee of the facility.

16 (D) Clergy and other spiritual caregivers who are performing
17 services in common areas of the community care facility or who
18 are advising an individual client at the request of, or with the
19 permission of, the client or legal decisionmaker, are exempt from
20 fingerprint and criminal background check requirements imposed
21 by community care licensing. This exemption does not apply to a
22 person who is a community care licensee or employee of the
23 facility.

24 (E) Members of fraternal, service, or similar organizations who
25 conduct group activities for clients if all of the following apply:

26 (i) Members are not left alone with clients.

27 (ii) Members do not transport clients off the facility premises.

28 (iii) The same organization does not conduct group activities
29 for clients more often than defined by the department's regulations.

30 (3) In addition to the exemptions in paragraph (2), the following
31 persons in foster family homes, certified family homes, and small
32 family homes are exempt from the requirements applicable under
33 paragraph (1):

34 (A) Adult friends and family of the licensed or certified foster
35 parent, who come into the home to visit for a length of time no
36 longer than defined by the department in regulations, provided
37 that the adult friends and family of the licensee are not left alone
38 with the foster children. However, the licensee, acting as a
39 reasonable and prudent parent, as defined in paragraph (2) of
40 subdivision (a) of Section 362.04 of the Welfare and Institutions

1 Code, may allow his or her adult friends and family to provide
2 short-term care to the foster child and act as an appropriate
3 occasional short-term babysitter for the child.

4 (B) Parents of a foster child's friend when the foster child is
5 visiting the friend's home and the friend, licensed or certified foster
6 parent, or both are also present. However, the licensee, acting as
7 a reasonable and prudent parent, may allow the parent of the foster
8 child's friend to act as an appropriate short-term babysitter for the
9 child without the friend being present.

10 (C) Individuals who are engaged by any licensed or certified
11 foster parent to provide short-term care to the child for periods not
12 to exceed 24 hours. Caregivers shall use a reasonable and prudent
13 parent standard in selecting appropriate individuals to act as
14 appropriate occasional short-term babysitters.

15 (4) In addition to the exemptions specified in paragraph (2), the
16 following persons in adult day care and adult day support centers
17 are exempt from the requirements applicable under paragraph (1):

18 (A) Unless contraindicated by the client's individualized
19 program plan (IPP) or needs and service plan, a spouse, significant
20 other, relative, or close friend of a client, or an attendant or a
21 facilitator for a client with a developmental disability if the
22 attendant or facilitator is not employed, retained, or contracted by
23 the licensee. This exemption applies only if the person is visiting
24 the client or providing direct care and supervision to the client.

25 (B) A volunteer if all of the following applies:

26 (i) The volunteer is supervised by the licensee or a facility
27 employee with a criminal record clearance or exemption.

28 (ii) The volunteer is never left alone with clients.

29 (iii) The volunteer does not provide any client assistance with
30 dressing, grooming, bathing, or personal hygiene other than
31 washing of hands.

32 (5) (A) In addition to the exemptions specified in paragraph
33 (2), the following persons in adult residential and social
34 rehabilitation facilities, unless contraindicated by the client's
35 individualized program plan (IPP) or needs and services plan, are
36 exempt from the requirements applicable under paragraph (1): a
37 spouse, significant other, relative, or close friend of a client, or an
38 attendant or a facilitator for a client with a developmental disability
39 if the attendant or facilitator is not employed, retained, or
40 contracted by the licensee. This exemption applies only if the

1 person is visiting the client or providing direct care and supervision
2 to that client.

3 (B) Nothing in this subdivision shall prevent a licensee from
4 requiring a criminal record clearance of any individual exempt
5 from the requirements of this section, provided that the individual
6 has client contact.

7 (6) Any person similar to those described in this subdivision,
8 as defined by the department in regulations.

9 (c) (1) Subsequent to initial licensure, a person specified in
10 subdivision (b) who is not exempted from fingerprinting shall
11 obtain either a criminal record clearance or an exemption from
12 disqualification pursuant to subdivision (g) from the State
13 Department of Social Services prior to employment, residence, or
14 initial presence in the facility. A person specified in subdivision
15 (b) who is not exempt from fingerprinting shall be fingerprinted
16 and shall sign a declaration under penalty of perjury regarding any
17 prior criminal convictions. The licensee shall submit fingerprint
18 images and related information to the Department of Justice and
19 the Federal Bureau of Investigation, through the Department of
20 Justice, for a state and federal level criminal offender record
21 information search, or comply with paragraph (1) of subdivision
22 (h). These fingerprint images and related information shall be sent
23 by electronic transmission in a manner approved by the State
24 Department of Social Services and the Department of Justice for
25 the purpose of obtaining a permanent set of fingerprints, and shall
26 be submitted to the Department of Justice by the licensee. A
27 licensee's failure to prohibit the employment, residence, or initial
28 presence of a person specified in subdivision (b) who is not exempt
29 from fingerprinting and who has not received either a criminal
30 record clearance or an exemption from disqualification pursuant
31 to subdivision (g) or to comply with paragraph (1) of subdivision
32 (h), as required in this section, shall result in the citation of a
33 deficiency and the immediate assessment of civil penalties in the
34 amount of one hundred dollars (\$100) per violation per day for a
35 maximum of five days, unless the violation is a second or
36 subsequent violation within a 12-month period in which case the
37 civil penalties shall be in the amount of one hundred dollars (\$100)
38 per violation for a maximum of 30 days, and shall be grounds for
39 disciplining the licensee pursuant to Section 1550. The department
40 may assess civil penalties for continued violations as permitted by

1 Section 1548. The fingerprint images and related information shall
2 then be submitted to the Department of Justice for processing.
3 Upon request of the licensee, who shall enclose a self-addressed
4 stamped postcard for this purpose, the Department of Justice shall
5 verify receipt of the fingerprints.

6 (2) Within 14 calendar days of the receipt of the fingerprint
7 images, the Department of Justice shall notify the State Department
8 of Social Services of the criminal record information, as provided
9 for in subdivision (a). If no criminal record information has been
10 recorded, the Department of Justice shall provide the licensee and
11 the State Department of Social Services with a statement of that
12 fact within 14 calendar days of receipt of the fingerprint images.
13 Documentation of the individual's clearance or exemption from
14 disqualification shall be maintained by the licensee and be available
15 for inspection. If new fingerprint images are required for
16 processing, the Department of Justice shall, within 14 calendar
17 days from the date of receipt of the fingerprints, notify the licensee
18 that the fingerprints were illegible, the Department of Justice shall
19 notify the State Department of Social Services, as required by
20 Section 1522.04, and shall also notify the licensee by mail, within
21 14 days of electronic transmission of the fingerprints to the
22 Department of Justice, if the person has no criminal history
23 recorded. A violation of the regulations adopted pursuant to Section
24 1522.04 shall result in the citation of a deficiency and an immediate
25 assessment of civil penalties in the amount of one hundred dollars
26 (\$100) per violation per day for a maximum of five days, unless
27 the violation is a second or subsequent violation within a 12-month
28 period in which case the civil penalties shall be in the amount of
29 one hundred dollars (\$100) per violation for a maximum of 30
30 days, and shall be grounds for disciplining the licensee pursuant
31 to Section 1550. The department may assess civil penalties for
32 continued violations as permitted by Section 1548.

33 (3) Except for persons specified in subdivision (b) who are
34 exempt from fingerprinting, the licensee shall endeavor to ascertain
35 the previous employment history of persons required to be
36 fingerprinted. If it is determined by the State Department of Social
37 Services, on the basis of the fingerprint images and related
38 information submitted to the Department of Justice, that subsequent
39 to obtaining a criminal record clearance or exemption from
40 disqualification pursuant to subdivision (g), the person has been

1 convicted of, or is awaiting trial for, a sex offense against a minor,
2 or has been convicted for an offense specified in Section 243.4,
3 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State
4 Department of Social Services shall notify the licensee to act
5 immediately to terminate the person's employment, remove the
6 person from the community care facility, or bar the person from
7 entering the community care facility. The State Department of
8 Social Services may subsequently grant an exemption from
9 disqualification pursuant to subdivision (g). If the conviction or
10 arrest was for another crime, except a minor traffic violation, the
11 licensee shall, upon notification by the State Department of Social
12 Services, act immediately to either (A) terminate the person's
13 employment, remove the person from the community care facility,
14 or bar the person from entering the community care facility; or
15 (B) seek an exemption from disqualification pursuant to subdivision
16 (g). The State Department of Social Services shall determine if
17 the person shall be allowed to remain in the facility until a decision
18 on the exemption from disqualification is rendered. A licensee's
19 failure to comply with the department's prohibition of employment,
20 contact with clients, or presence in the facility as required by this
21 paragraph shall result in a citation of deficiency and an immediate
22 assessment of civil penalties in the amount of one hundred dollars
23 (\$100) per violation per day and shall be grounds for disciplining
24 the licensee pursuant to Section 1550.

25 (4) The department may issue an exemption from
26 disqualification on its own motion pursuant to subdivision (g) if
27 the person's criminal history indicates that the person is of good
28 character based on the age, seriousness, and frequency of the
29 conviction or convictions. The department, in consultation with
30 interested parties, shall develop regulations to establish the criteria
31 to grant an exemption from disqualification pursuant to this
32 paragraph.

33 (5) Concurrently with notifying the licensee pursuant to
34 paragraph (3), the department shall notify the affected individual
35 of his or her right to seek an exemption from disqualification
36 pursuant to subdivision (g). The individual may seek an exemption
37 from disqualification only if the licensee terminates the person's
38 employment or removes the person from the facility after receiving
39 notice from the department pursuant to paragraph (3).

(d) (1) Before issuing a license or certificate of approval to any person or persons to operate a foster family home or certified family home as described in Section 1506, the State Department of Social Services or other approving authority shall secure California and Federal Bureau of Investigation criminal history information to determine whether the applicant or any person specified in subdivision (b) who is not exempt from fingerprinting has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. The State Department of Social Services or other approving authority shall not issue a license or certificate of approval to any foster family home or certified family home applicant who has not obtained both a California and Federal Bureau of Investigation criminal record clearance or exemption from disqualification pursuant to subdivision (g).

(2) The criminal history information shall include the full criminal record, if any, of those persons.

(3) Neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant.

(4) The following shall apply to the criminal record information:

(A) If the applicant or other persons specified in subdivision (b) who are not exempt from fingerprinting have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied.

(B) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) who is not exempt from fingerprinting is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services or other approving authority may cease processing the application until the conclusion of the trial.

1 (C) For purposes of this subdivision, a criminal record clearance
2 provided under Section 8712 of the Family Code may be used by
3 the department or other approving agency.

4 (D) To the same extent required for federal funding, an applicant
5 for a foster family home license or for certification as a family
6 home, and any other person specified in subdivision (b) who is
7 not exempt from fingerprinting, shall submit a set of fingerprint
8 images and related information to the Department of Justice and
9 the Federal Bureau of Investigation, through the Department of
10 Justice, for a state and federal level criminal offender record
11 information search, in addition to the criminal records search
12 required by subdivision (a).

13 (5) Any person specified in this subdivision shall, as a part of
14 the application, be fingerprinted and sign a declaration under
15 penalty of perjury regarding any prior criminal convictions or
16 arrests for any crime against a child, spousal or cohabitant abuse
17 or, any crime for which the department cannot grant an exemption
18 if the person was convicted and shall submit these fingerprints to
19 the licensing agency or other approving authority.

20 (6) (A) Subsequent to initial licensure or certification, a person
21 specified in subdivision (b) who is not exempt from fingerprinting
22 shall obtain both a California and Federal Bureau of Investigation
23 criminal record clearance, or an exemption from disqualification
24 pursuant to subdivision (g), prior to employment, residence, or
25 initial presence in the foster family or certified family home. A
26 foster family home licensee or foster family agency shall submit
27 fingerprint images and related information of persons specified in
28 subdivision (b) who are not exempt from fingerprinting to the
29 Department of Justice and the Federal Bureau of Investigation,
30 through the Department of Justice, for a state and federal level
31 criminal offender record information search, or to comply with
32 paragraph (1) of subdivision (h). A foster family home licensee's
33 or a foster family agency's failure to either prohibit the
34 employment, residence, or initial presence of a person specified
35 in subdivision (b) who is not exempt from fingerprinting and who
36 has not received either a criminal record clearance or an exemption
37 from disqualification pursuant to subdivision (g), or comply with
38 paragraph (1) of subdivision (h), as required in this section, shall
39 result in a citation of a deficiency, and the immediate civil penalties
40 of one hundred dollars (\$100) per violation per day for a maximum

1 of five days, unless the violation is a second or subsequent violation
2 within a 12-month period in which case the civil penalties shall
3 be in the amount of one hundred dollars (\$100) per violation for
4 a maximum of 30 days, and shall be grounds for disciplining the
5 licensee pursuant to Section 1550. A violation of the regulation
6 adopted pursuant to Section 1522.04 shall result in the citation of
7 a deficiency and an immediate assessment of civil penalties in the
8 amount of one hundred dollars (\$100) per violation per day for a
9 maximum of five days, unless the violation is a second or
10 subsequent violation within a 12-month period in which case the
11 civil penalties shall be in the amount of one hundred dollars (\$100)
12 per violation for a maximum of 30 days, and shall be grounds for
13 disciplining the foster family home licensee or the foster family
14 agency pursuant to Section 1550. The State Department of Social
15 Services may assess penalties for continued violations, as permitted
16 by Section 1548. The fingerprint images shall then be submitted
17 to the Department of Justice for processing.

18 (B) Upon request of the licensee, who shall enclose a
19 self-addressed envelope for this purpose, the Department of Justice
20 shall verify receipt of the fingerprints. Within five working days
21 of the receipt of the criminal record or information regarding
22 criminal convictions from the Department of Justice, the
23 department shall notify the applicant of any criminal arrests or
24 convictions. If no arrests or convictions are recorded, the
25 Department of Justice shall provide the foster family home licensee
26 or the foster family agency with a statement of that fact concurrent
27 with providing the information to the State Department of Social
28 Services.

29 (7) If the State Department of Social Services finds that the
30 applicant, or any other person specified in subdivision (b) who is
31 not exempt from fingerprinting, has been convicted of a crime
32 other than a minor traffic violation, the application shall be denied,
33 unless the director grants an exemption from disqualification
34 pursuant to subdivision (g).

35 (8) If the State Department of Social Services finds after
36 licensure or the granting of the certificate of approval that the
37 licensee, certified foster parent, or any other person specified in
38 subdivision (b) who is not exempt from fingerprinting, has been
39 convicted of a crime other than a minor traffic violation, the license
40 or certificate of approval may be revoked by the department or the

1 foster family agency, whichever is applicable, unless the director
2 grants an exemption from disqualification pursuant to subdivision
3 (g). A licensee's failure to comply with the department's
4 prohibition of employment, contact with clients, or presence in
5 the facility as required by paragraph (3) of subdivision (c) shall
6 be grounds for disciplining the licensee pursuant to Section 1550.

7 (e) The State Department of Social Services shall not use a
8 record of arrest to deny, revoke, or terminate any application,
9 license, employment, or residence unless the department
10 investigates the incident and secures evidence, whether or not
11 related to the incident of arrest, that is admissible in an
12 administrative hearing to establish conduct by the person that may
13 pose a risk to the health and safety of any person who is or may
14 become a client. The State Department of Social Services is
15 authorized to obtain any arrest or conviction records or reports
16 from any law enforcement agency as necessary to the performance
17 of its duties to inspect, license, and investigate community care
18 facilities and individuals associated with a community care facility.

19 (f) (1) For purposes of this section or any other provision of
20 this chapter, a conviction means a plea or verdict of guilty or a
21 conviction following a plea of nolo contendere. Any action that
22 the State Department of Social Services is permitted to take
23 following the establishment of a conviction may be taken when
24 the time for appeal has elapsed, when the judgment of conviction
25 has been affirmed on appeal, or when an order granting probation
26 is made suspending the imposition of sentence, notwithstanding
27 a subsequent order pursuant to Sections 1203.4 and 1203.4a of the
28 Penal Code permitting the person to withdraw his or her plea of
29 guilty and to enter a plea of not guilty, or setting aside the verdict
30 of guilty, or dismissing the accusation, information, or indictment.
31 For purposes of this section or any other provision of this chapter,
32 the record of a conviction, or a copy thereof certified by the clerk
33 of the court or by a judge of the court in which the conviction
34 occurred, shall be conclusive evidence of the conviction. For
35 purposes of this section or any other provision of this chapter, the
36 arrest disposition report certified by the Department of Justice, or
37 documents admissible in a criminal action pursuant to Section
38 969b of the Penal Code, shall be prima facie evidence of the
39 conviction, notwithstanding any other law prohibiting the
40 admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(g) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraph (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4), (7), and (8) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption shall not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) (i) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (c) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) Notwithstanding clause (i), the director may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This clause shall not apply to foster care providers, including relative caregivers, nonrelated extended family members, or any other person specified in subdivision (b), in those homes where the individual has been convicted of an offense described in paragraph (1) of subdivision (c) of Section 667.5 of the Penal Code.

1 (B) A felony offense specified in Section 729 of the Business
2 and Professions Code or Section 206 or 215, subdivision (a) of
3 Section 347, subdivision (b) of Section 417, or subdivision (a) of
4 Section 451 of the Penal Code.

5 (C) Under no circumstances shall an exemption be granted
6 pursuant to this subdivision to any foster care provider applicant
7 if that applicant, or any other person specified in subdivision (b)
8 in those homes, has a felony conviction for either of the following
9 offenses:

10 (i) A felony conviction for child abuse or neglect, spousal abuse,
11 crimes against a child, including child pornography, or for a crime
12 involving violence, including rape, sexual assault, or homicide,
13 but not including other physical assault and battery. For purposes
14 of this subparagraph, a crime involving violence means a violent
15 crime specified in clause (i) of subparagraph (A), or subparagraph
16 (B).

17 (ii) A felony conviction, within the last five years, for physical
18 assault, battery, or a drug- or alcohol-related offense.

19 (iii) This subparagraph shall not apply to licenses or approvals
20 wherein a caregiver was granted an exemption to a criminal
21 conviction described in clause (i) or (ii) prior to the enactment of
22 this subparagraph.

23 (iv) This subparagraph shall remain operative only to the extent
24 that compliance with its provisions is required by federal law as
25 a condition for receiving funding under Title IV-E of the federal
26 Social Security Act (42 U.S.C. Sec. 670 et seq.).

27 (2) The department shall not prohibit a person from being
28 employed or having contact with clients in a facility on the basis
29 of a denied criminal record exemption request or arrest information
30 unless the department complies with the requirements of Section
31 1558.

32 (h) (1) For purposes of compliance with this section, the
33 department may permit an individual to transfer a current criminal
34 record clearance, as defined in subdivision (a), from one facility
35 to another, as long as the criminal record clearance has been
36 processed through a state licensing district office, and is being
37 transferred to another facility licensed by a state licensing district
38 office. The request shall be in writing to the State Department of
39 Social Services, and shall include a copy of the person's driver's
40 license or valid identification card issued by the Department of

1 Motor Vehicles, or a valid photo identification issued by another
2 state or the United States government if the person is not a
3 California resident. Upon request of the licensee, who shall enclose
4 a self-addressed envelope for this purpose, the State Department
5 of Social Services shall verify whether the individual has a
6 clearance that can be transferred.

7 (2) The State Department of Social Services shall hold criminal
8 record clearances in its active files for a minimum of three years
9 after an employee is no longer employed at a licensed facility in
10 order for the criminal record clearance to be transferred.

11 (3) The following shall apply to a criminal record clearance or
12 exemption from the department or a county office with
13 department-delegated licensing authority:

14 (A) A county office with department-delegated licensing
15 authority may accept a clearance or exemption from the
16 department.

17 (B) The department may accept a clearance or exemption from
18 any county office with department-delegated licensing authority.

19 (C) A county office with department-delegated licensing
20 authority may accept a clearance or exemption from any other
21 county office with department-delegated licensing authority.

22 (4) With respect to notifications issued by the Department of
23 Justice pursuant to Section 11105.2 of the Penal Code concerning
24 an individual whose criminal record clearance was originally
25 processed by the department or a county office with
26 department-delegated licensing authority, all of the following shall
27 apply:

28 (A) The Department of Justice shall process a request from the
29 department or a county office with department-delegated licensing
30 authority to receive the notice only if all of the following conditions
31 are met:

32 (i) The request shall be submitted to the Department of Justice
33 by the agency to be substituted to receive the notification.

34 (ii) The request shall be for the same applicant type as the type
35 for which the original clearance was obtained.

36 (iii) The request shall contain all prescribed data elements and
37 format protocols pursuant to a written agreement between the
38 department and the Department of Justice.

1 (B) (i) On or before January 7, 2005, the department shall notify
2 the Department of Justice of all county offices that have
3 department-delegated licensing authority.

4 (ii) The department shall notify the Department of Justice within
5 15 calendar days of the date on which a new county office receives
6 department-delegated licensing authority or a county's delegated
7 licensing authority is rescinded.

8 (C) The Department of Justice shall charge the department, a
9 county office with department-delegated licensing authority, or a
10 county child welfare agency with criminal record clearance and
11 exemption authority, a fee for each time a request to substitute the
12 recipient agency is received for purposes of this paragraph. This
13 fee shall not exceed the cost of providing the service.

14 (5) (A) A county child welfare agency with authority to secure
15 clearances pursuant to Section 16504.5 of the Welfare and
16 Institutions Code and to grant exemptions pursuant to Section
17 361.4 of the Welfare and Institutions Code may accept a clearance
18 or exemption from another county with criminal record and
19 exemption authority pursuant to these sections.

20 (B) With respect to notifications issued by the Department of
21 Justice pursuant to Section 11105.2 of the Penal Code concerning
22 an individual whose criminal record clearance was originally
23 processed by a county child welfare agency with criminal record
24 clearance and exemption authority, the Department of Justice shall
25 process a request from a county child welfare agency with criminal
26 record and exemption authority to receive the notice only if all of
27 the following conditions are met:

28 (i) The request shall be submitted to the Department of Justice
29 by the agency to be substituted to receive the notification.

30 (ii) The request shall be for the same applicant type as the type
31 for which the original clearance was obtained.

32 (iii) The request shall contain all prescribed data elements and
33 format protocols pursuant to a written agreement between the State
34 Department of Social Services and the Department of Justice.

35 (i) The full criminal record obtained for purposes of this section
36 may be used by the department or by a licensed adoption agency
37 as a clearance required for adoption purposes.

38 (j) The State Department of Social Services may share summary
39 information related to a criminal record clearance or exemption
40 from the department with a county child welfare agency with the

responsibility to monitor the health and safety of persons receiving care, treatment, or services from state-licensed foster homes, certified homes of licensed foster family agencies, licensed group homes, and foster family agencies and their employees. A county welfare agency may review *the summary* information related to a criminal record clearance or exemption granted by the State Department of Social Services as one factor in addition to all other factors, considered by a county welfare agency to determine the appropriate placement for a child in a licensed or certified foster home.

(k) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(l) The State Department of Social Services may charge a fee for the costs of processing electronic fingerprint images and related information.

(m) Amendments to this section made in the 1999 portion of the 1999–2000 Regular Session shall be implemented commencing 60 days after the effective date of the act amending this section in the 1999 portion of the 1999–2000 Regular Session, except that those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation shall be implemented 90 days after the effective date of that act.

SEC. 2. Section 1522.08 of the Health and Safety Code, as amended by Section 15 of Chapter 22 of the Statutes of 2013, is amended to read:

1522.08. (a) In order to protect the health and safety of persons receiving care or services from individuals or facilities licensed or certified by the state, the following information may be shared:

(1) The California Department of Aging, State Department of Public Health, State Department of Health Care Services, State Department of Social Services, and the Emergency Medical Services Authority may share information with respect to applicants, licensees, certificates, or individuals who have been the subject of any administrative action resulting in the denial, suspension, probation, or revocation of a license, permit, or

1 certificate, or in the exclusion of any person from a facility who
2 is subject to a background check, as otherwise provided by law.

3 (2) The State Department of Social Services and county child
4 welfare agencies may share information with respect to applicants,
5 licensees, certificates, or individuals who have been the subject of
6 any administrative action resulting in the denial, suspension,
7 probation, or revocation of a license, permit, or certificate, or in
8 the exclusion of any person from a facility who is subject to a
9 background check, as otherwise provided by law.

10 (b) The State Department of Social Services shall maintain a
11 centralized system for the monitoring and tracking of final
12 administrative actions, to be used by the California Department
13 of Aging, State Department of Public Health, State Department of
14 Health Care Services, State Department of Social Services, the
15 Emergency Medical Services Authority, and county child welfare
16 agencies as a part of the background check process. The State
17 Department of Social Services may charge a fee to departments
18 under the jurisdiction of the California Health and Human Services
19 Agency and to county child welfare agencies sufficient to cover
20 the cost of providing those departments with the final
21 administrative action specified in subdivision (a). To the extent
22 that additional funds are needed for this purpose, implementation
23 of this subdivision shall be contingent upon a specific appropriation
24 provided for this purpose in the annual Budget Act.

25 (c) The State Department of Social Services, in consultation
26 with the other departments under the jurisdiction of the California
27 Health and Human Services Agency, may adopt regulations to
28 implement this section.

29 (d) For the purposes of this section and Section 1499,
30 “administrative action” means any proceeding initiated by the
31 California Department of Aging, State Department of Public
32 Health, State Department of Health Care Services, State
33 Department of Social Services, and the Emergency Medical
34 Services Authority to determine the rights and duties of an
35 applicant, licensee, or other individual or entity over which the
36 department has jurisdiction. “Administrative action” may include,
37 but is not limited to, action involving the denial of an application
38 for, or the suspension or revocation of, any license, special permit,
39 administrator certificate, criminal record clearance, or exemption.

40 SEC. 3. Section 11105.2 of the Penal Code is amended to read:

1 11105.2. (a) The Department of Justice may provide
2 subsequent state or federal arrest or disposition notification to any
3 entity authorized by state or federal law to receive state or federal
4 summary criminal history information to assist in fulfilling
5 employment, licensing, certification duties, duties of placing a
6 child in a ~~licensed foster family home, group home, or~~
7 ~~state-licensed foster home,~~ *state-licensed foster home, a certified*
8 *home of a licensed foster family agency, or a licensed group home,*
9 or the duties of approving relative caregivers and nonrelative
10 extended family members, upon the arrest or disposition of any
11 person whose fingerprints are maintained on file at the Department
12 of Justice or the Federal Bureau of Investigation as the result of
13 an application for licensing, employment, certification, or approval.
14 Nothing in this section shall authorize the notification of a
15 subsequent disposition pertaining to a disposition that does not
16 result in a conviction, unless the department has previously
17 received notification of the arrest and has previously lawfully
18 notified a receiving entity of the pending status of that arrest. When
19 the department supplies subsequent arrest or disposition notification
20 to a receiving entity, the entity shall, at the same time, expeditiously
21 furnish a copy of the information to the person to whom it relates
22 if the information is a basis for an adverse employment, licensing,
23 or certification decision. When furnished other than in person, the
24 copy shall be delivered to the last contact information provided
25 by the applicant.

26 (b) For purposes of this section, “approval” means those duties
27 described in subdivision (d) of Section 309 of the Welfare and
28 Institutions Code for approving the home of a relative caregiver
29 or of a nonrelative extended family member for placement of a
30 child supervised by the juvenile court.

31 (c) Any entity, other than a law enforcement agency employing
32 peace officers as defined in Section 830.1, subdivisions (a) and
33 (e) of Section 830.2, subdivision (a) of Section 830.3, subdivisions
34 (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31,
35 shall enter into a contract with the Department of Justice in order
36 to receive notification of subsequent state or federal arrests or
37 dispositions for licensing, employment, or certification purposes.

38 (d) Any entity which submits the fingerprints of applicants for
39 licensing, employment, certification, *placement*, or approval to
40 the Department of Justice for the purpose of establishing a record

1 of the applicant to receive notification of subsequent state or federal
2 arrests or dispositions shall immediately notify the department
3 when the employment of the applicant is terminated, when the
4 applicant's license or certificate is revoked, when the applicant
5 may no longer renew or reinstate the license or certificate, when
6 a placement in a ~~licensed foster family home, group home, or~~
7 ~~state-licensed foster home~~ *state-licensed foster home, a certified*
8 *home of a licensed foster family agency, or a licensed group home*
9 associated with the applicant is terminated, or when a relative
10 caregiver's or nonrelative extended family member's approval is
11 terminated. The Department of Justice shall terminate state or
12 federal subsequent notification on any applicant upon the request
13 of the licensing, employment, certifying, or approving authority.

14 (e) Any entity receiving a notification of a state or federal
15 subsequent arrest or disposition for a person unknown to the entity,
16 or for a person no longer employed by the entity, or no longer
17 eligible to renew the certificate or license for which subsequent
18 notification service was established shall immediately return the
19 subsequent notification to the Department of Justice, informing
20 the department that the entity is no longer interested in the
21 applicant. The entity shall not record or otherwise retain any
22 information received as a result of the subsequent notice.

23 (f) Any entity that submits the fingerprints of an applicant for
24 employment, licensing, certification, or approval to the Department
25 of Justice for the purpose of establishing a record at the department
26 or the Federal Bureau of Investigation to receive notification of
27 subsequent arrest or disposition shall immediately notify the
28 department if the applicant is not subsequently employed, or if the
29 applicant is denied ~~licensing~~ *licensing*, certification, or approval.

30 (g) An entity that fails to provide the Department of Justice with
31 notification as set forth in subdivisions (c), (d), and (e) may be
32 denied further subsequent notification service.

33 (h) Notwithstanding subdivisions (c), (d), and (f), subsequent
34 notification by the Department of Justice and retention by the
35 employing agency shall continue as to retired peace officers listed
36 in subdivision (c) of Section 830.5.

37 SEC. 4. Section 11170 of the Penal Code is amended to read:

38 11170. (a) (1) The Department of Justice shall maintain an
39 index of all reports of child abuse and severe neglect submitted
40 pursuant to Section 11169. The index shall be continually updated

1 by the department and shall not contain any reports that are
2 determined to be not substantiated. The department may adopt
3 rules governing recordkeeping and reporting pursuant to this article.

4 (2) The department shall act only as a repository of reports of
5 suspected child abuse and severe neglect to be maintained in the
6 Child Abuse Central Index (CACI) pursuant to paragraph (1). The
7 submitting agencies are responsible for the accuracy, completeness,
8 and retention of the reports described in this section. The
9 department shall be responsible for ensuring that the CACI
10 accurately reflects the report it receives from the submitting agency.

11 (3) Only information from reports that are reported as
12 substantiated shall be filed pursuant to paragraph (1), and all other
13 determinations shall be removed from the central list. If a person
14 listed in the CACI was under 18 years of age at the time of the
15 report, the information shall be deleted from the CACI 10 years
16 from the date of the incident resulting in the CACI listing, if no
17 subsequent report concerning the same person is received during
18 that time period.

19 (b) The provisions of subdivision (c) of Section 11169 apply to
20 any information provided pursuant to this subdivision.

21 (1) The Department of Justice shall immediately notify an
22 agency that submits a report pursuant to Section 11169, or a
23 prosecutor who requests notification, of any information maintained
24 pursuant to subdivision (a) that is relevant to the known or
25 suspected instance of child abuse or severe neglect reported by the
26 agency. The agency shall make that information available to the
27 reporting health care practitioner who is treating a person reported
28 as a possible victim of known or suspected child abuse. The agency
29 shall make that information available to the reporting child
30 custodian, Child Abuse Prevention and Treatment Act guardian
31 ad litem appointed under Rule 5.662 of the California Rules of
32 Court, or counsel appointed under Section 317 or 318 of the
33 Welfare and Institutions Code, or the appropriate licensing agency,
34 if he or she or the licensing agency is handling or investigating a
35 case of known or suspected child abuse or severe neglect.

36 (2) When a report is made pursuant to subdivision (a) of Section
37 11166, or Section 11166.05, the investigating agency, upon
38 completion of the investigation or after there has been a final
39 disposition in the matter, shall inform the person required or

1 authorized to report of the results of the investigation and of any
2 action the agency is taking with regard to the child or family.

3 (3) The Department of Justice shall make relevant information
4 from the CACI available to a law enforcement agency, county
5 welfare department, or county probation department that is
6 conducting a child abuse investigation.

7 (4) The department shall make available to the State Department
8 of Social Services, or to any county licensing agency that has
9 contracted with the state for the performance of licensing duties,
10 or to any county child welfare agency under the conditions
11 described by Section 16504.5 of the Welfare and Institutions Code,
12 or to a tribal court or tribal child welfare agency of a tribe,
13 consortium of tribes, or tribal organization that has entered into
14 an agreement with the state pursuant to Section 10553.1 of the
15 Welfare and Institutions Code, information regarding a known or
16 suspected child abuser maintained pursuant to this section and
17 subdivision (a) of Section 11169 concerning any person who is an
18 applicant for licensure or approval, or any adult who resides or is
19 employed in the home of an applicant for licensure or approval,
20 or who is an applicant for employment in a position having
21 supervisory or disciplinary power over a child or children, or who
22 will provide 24-hour care for a child or children in a residential
23 home or facility, pursuant to Section 1522.1 or 1596.877 of the
24 Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of
25 the Family Code, or Section 11403.2 of the Welfare and Institutions
26 Code.

27 (5) The Department of Justice shall make available to a Court
28 Appointed Special Advocate program that is conducting a
29 background investigation of an applicant seeking employment
30 with the program or a volunteer position as a Court Appointed
31 Special Advocate, as defined in Section 101 of the Welfare and
32 Institutions Code, information contained in the index regarding
33 known or suspected child abuse by the applicant.

34 (6) For purposes of child death review, the Department of Justice
35 shall make available to the chairperson, or the chairperson's
36 designee, for each county child death review team, or the State
37 Child Death Review Council, information for investigative
38 purposes only that is maintained in the CACI pursuant to
39 subdivision (a) relating to the death of one or more children and
40 any prior child abuse or neglect investigation reports maintained

1 involving the same victims, siblings, or suspects. Local child death
2 review teams may share any relevant information regarding case
3 reviews involving child death with other child death review teams.

4 (7) The department shall make available to investigative
5 agencies or probation officers, or court investigators acting
6 pursuant to Section 1513 of the Probate Code, responsible for
7 placing children or assessing the possible placement of children
8 pursuant to Article 6 (commencing with Section 300), Article 7
9 (commencing with Section 305), Article 10 (commencing with
10 Section 360), or Article 14 (commencing with Section 601) of
11 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
12 Code, or Article 2 (commencing with Section 1510) or Article 3
13 (commencing with Section 1540) of Chapter 1 of Part 2 of Division
14 4 of the Probate Code, information regarding a known or suspected
15 child abuser contained in the index concerning any adult residing
16 in the home where the child may be placed, when this information
17 is requested for purposes of ensuring that the placement is in the
18 best interest of the child. Upon receipt of relevant information
19 concerning child abuse or neglect investigation reports contained
20 in the CACI from the Department of Justice pursuant to this
21 subdivision, the agency or court investigator shall notify, in writing,
22 the person listed in the CACI that he or she is in the index. The
23 notification shall include the name of the reporting agency and the
24 date of the report.

25 (8) The Department of Justice shall make available to a
26 government agency conducting a background investigation
27 pursuant to Section 1031 of the Government Code of an applicant
28 seeking employment as a peace officer, as defined in Section 830,
29 information regarding a known or suspected child abuser
30 maintained pursuant to this section concerning the applicant.

31 (9) The Department of Justice shall make available to a county
32 child welfare agency or delegated county adoption agency, as
33 defined in Section 8515 of the Family Code, conducting a
34 background investigation, or a government agency conducting a
35 background investigation on behalf of one of those agencies,
36 information regarding a known or suspected child abuser
37 maintained pursuant to this section and subdivision (a) of Section
38 11169 concerning any applicant seeking employment or volunteer
39 status with the agency who, in the course of his or her employment
40 or volunteer work, will have direct contact with children who are

1 alleged to have been, are at risk of, or have suffered, abuse or
2 neglect.

3 (10) (A) Persons or agencies, as specified in subdivision (b),
4 if investigating a case of known or suspected child abuse or neglect,
5 or the State Department of Social Services or any county licensing
6 agency pursuant to paragraph (4), or a Court Appointed Special
7 Advocate (CASA) program conducting a background investigation
8 for employment or volunteer candidates pursuant to paragraph (5),
9 or an investigative agency, probation officer, or court investigator
10 responsible for placing children or assessing the possible placement
11 of children pursuant to paragraph (7), or a government agency
12 conducting a background investigation of an applicant seeking
13 employment as a peace officer pursuant to paragraph (8), or a
14 county child welfare agency or delegated county adoption agency
15 conducting a background investigation of an applicant seeking
16 employment or volunteer status who, in the course of his or her
17 employment or volunteer work, will have direct contact with
18 children who are alleged to have been, are at risk of, or have
19 suffered, abuse or neglect, pursuant to paragraph (9), to whom
20 disclosure of any information maintained pursuant to subdivision
21 (a) is authorized, are responsible for obtaining the original
22 investigative report from the reporting agency, and for drawing
23 independent conclusions regarding the quality of the evidence
24 disclosed, and its sufficiency for making decisions regarding
25 investigation, prosecution, licensing, placement of a child,
26 employment or volunteer positions with a CASA program, or
27 employment as a peace officer.

28 (B) If CACI information is requested by an agency for the
29 temporary placement of a child in an emergency situation pursuant
30 to Article 7 (commencing with Section 305) of Chapter 2 of Part
31 1 of Division 2 of the Welfare and Institutions Code, the
32 department is exempt from the requirements of Section 1798.18
33 of the Civil Code if compliance would cause a delay in providing
34 an expedited response to the agency's inquiry and if further delay
35 in placement may be detrimental to the child.

36 (11) (A) Whenever information contained in the Department
37 of Justice files is furnished as the result of an application for
38 employment or licensing or volunteer status pursuant to paragraph
39 (4), (5), (8), or (9), the Department of Justice may charge the person
40 or entity making the request a fee. The fee shall not exceed the

1 reasonable costs to the department of providing the information.
2 The only increase shall be at a rate not to exceed the legislatively
3 approved cost-of-living adjustment for the department. In no case
4 shall the fee exceed fifteen dollars (\$15).

5 (B) All moneys received by the department pursuant to this
6 section to process trustline applications for purposes of Chapter
7 3.35 (commencing with Section 1596.60) of Division 2 of the
8 Health and Safety Code shall be deposited in a special account in
9 the General Fund that is hereby established and named the
10 Department of Justice Child Abuse Fund. Moneys in the fund shall
11 be available, upon appropriation by the Legislature, for expenditure
12 by the department to offset the costs incurred to process trustline
13 automated child abuse or neglect system checks pursuant to this
14 section.

15 (C) All moneys, other than those described in subparagraph (B),
16 received by the department pursuant to this paragraph shall be
17 deposited in a special account in the General Fund which is hereby
18 created and named the Department of Justice Sexual Habitual
19 Offender Fund. The funds shall be available, upon appropriation
20 by the Legislature, for expenditure by the department to offset the
21 costs incurred pursuant to Chapter 9.5 (commencing with Section
22 13885) and Chapter 10 (commencing with Section 13890) of Title
23 6 of Part 4, and the DNA and Forensic Identification Data Base
24 and Data Bank Act of 1998 (Chapter 6 (commencing with Section
25 295) of Title 9 of Part 1), and for maintenance and improvements
26 to the statewide Sexual Habitual Offender Program and the
27 California DNA offender identification file (CAL-DNA) authorized
28 by Chapter 9.5 (commencing with Section 13885) of Title 6 of
29 Part 4 and the DNA and Forensic Identification Data Base and
30 Data Bank Act of 1998 (Chapter 6 (commencing with Section 295)
31 of Title 9 of Part 1).

32 (c) (1) The Department of Justice shall make available to any
33 agency responsible for placing children pursuant to Article 7
34 (commencing with Section 305) of Chapter 2 of Part 1 of Division
35 2 of the Welfare and Institutions Code, upon request, relevant
36 information concerning child abuse or neglect reports contained
37 in the index, when making a placement with a responsible relative
38 pursuant to Sections 281.5, 305, and 361.3 of the Welfare and
39 Institutions Code. Upon receipt of relevant information concerning
40 child abuse or neglect reports contained in the index from the

1 Department of Justice pursuant to this subdivision, the agency
2 shall also notify in writing the person listed in the CACI that he
3 or she is in the index. The notification shall include the location
4 of the original investigative report and the submitting agency. The
5 notification shall be submitted to the person listed at the same time
6 that all other parties are notified of the information, and no later
7 than the actual judicial proceeding that determines placement.

8 (2) If information is requested by an agency for the placement
9 of a child with a responsible relative in an emergency situation
10 pursuant to Article 7 (commencing with Section 305) of Chapter
11 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the
12 department is exempt from the requirements of Section 1798.18
13 of the Civil Code if compliance would cause a delay in providing
14 an expedited response to the child protective agency's inquiry and
15 if further delay in placement may be detrimental to the child.

16 (d) The department shall make available any information
17 maintained pursuant to subdivision (a) to out-of-state law
18 enforcement agencies conducting investigations of known or
19 suspected child abuse or neglect only when an agency makes the
20 request for information in writing and on official letterhead, or as
21 designated by the department, identifying the suspected abuser or
22 victim by name and date of birth or approximate age. The request
23 shall be signed by the department supervisor of the requesting law
24 enforcement agency. The written requests shall cite the out-of-state
25 statute or interstate compact provision that requires that the
26 information contained within these reports shall be disclosed only
27 to law enforcement, prosecutorial entities, or multidisciplinary
28 investigative teams, and shall cite the safeguards in place to prevent
29 unlawful disclosure of any confidential information provided by
30 the requesting state or the applicable interstate compact provision.

31 (e) (1) The department shall make available to an out-of-state
32 agency, for purposes of approving a prospective foster or adoptive
33 parent in compliance with the Adam Walsh Child Protection and
34 Safety Act of 2006 (Public Law 109-248), information regarding
35 a known or suspected child abuser maintained pursuant to
36 subdivision (a) concerning the prospective foster or adoptive
37 parent, and any other adult living in the home of the prospective
38 foster or adoptive parent. The department shall make that
39 information available only when the out-of-state agency makes
40 the request indicating that continual compliance will be maintained

1 with the requirement in paragraph (20) of subsection (a) of Section
2 671 of Title 42 of the United States Code that requires the state to
3 have in place safeguards to prevent the unauthorized disclosure of
4 information in any child abuse and neglect registry maintained by
5 the state and prevent the information from being used for a purpose
6 other than the conducting of background checks in foster or
7 adoption placement cases.

8 (2) With respect to any information provided by the department
9 in response to the out-of-state agency's request, the out-of-state
10 agency is responsible for obtaining the original investigative report
11 from the reporting agency, and for drawing independent
12 conclusions regarding the quality of the evidence disclosed and
13 its sufficiency for making decisions regarding the approval of
14 prospective foster or adoptive parents.

15 (3) (A) Whenever information contained in the index is
16 furnished pursuant to this subdivision, the department shall charge
17 the out-of-state agency making the request a fee. The fee shall not
18 exceed the reasonable costs to the department of providing the
19 information. The only increase shall be at a rate not to exceed the
20 legislatively approved cost-of-living adjustment for the department.
21 In no case shall the fee exceed fifteen dollars (\$15).

22 (B) All moneys received by the department pursuant to this
23 subdivision shall be deposited in the Department of Justice Child
24 Abuse Fund, established under subparagraph (B) of paragraph (11)
25 of subdivision (b). Moneys in the fund shall be available, upon
26 appropriation by the Legislature, for expenditure by the department
27 to offset the costs incurred to process requests for information
28 pursuant to this subdivision.

29 (f) (1) Any person may determine if he or she is listed in the
30 CACI by making a request in writing to the Department of Justice.
31 The request shall be notarized and include the person's name,
32 address, date of birth, and either a social security number or a
33 California identification number. Upon receipt of a notarized
34 request, the Department of Justice shall make available to the
35 requesting person information identifying the date of the report
36 and the submitting agency. The requesting person is responsible
37 for obtaining the investigative report from the submitting agency
38 pursuant to paragraph (11) of subdivision (b) of Section 11167.5.

39 (2) No person or agency shall require or request another person
40 to furnish a copy of a record concerning himself or herself, or

1 notification that a record concerning himself or herself exists or
2 does not exist, pursuant to paragraph (1).

3 (g) If a person is listed in the CACI only as a victim of child
4 abuse or neglect, and that person is 18 years of age or older, that
5 person may have his or her name removed from the index by
6 making a written request to the Department of Justice. The request
7 shall be notarized and include the person's name, address, social
8 security number, and date of birth.

9 SEC. 5. Section 16504.5 of the Welfare and Institutions Code
10 is amended to read:

11 16504.5. (a) (1) Notwithstanding any other law, pursuant to
12 subdivision (b) of Section 11105 of the Penal Code, a child welfare
13 agency may secure from an appropriate governmental criminal
14 justice agency the state summary criminal history information, as
15 defined in subdivision (a) of Section 11105 of the Penal Code,
16 through the California Law Enforcement Telecommunications
17 System pursuant to subdivision (d) of Section 309 of this code,
18 and subdivision (a) of Section 1522 of the Health and Safety Code,
19 for the following purposes:

20 (A) To conduct an investigation pursuant to Section 11166.3 of
21 the Penal Code or an investigation involving a child in which the
22 child is alleged to come within the jurisdiction of the juvenile court
23 under Section 300 of this code.

24 (B) (i) To assess the appropriateness and safety of placing a
25 child who has been detained or is a dependent of the court, in the
26 home of a relative assessed pursuant to Section 309 or 361.4, or
27 in the home of a nonrelative extended family member assessed as
28 described in Section 362.7 during an emergency situation.

29 (ii) When a relative or nonrelative family member who has been
30 assessed pursuant to clause (i) and approved as a caregiver moves
31 to a different county and continued placement of the child with
32 that person is intended, the move shall be considered an emergency
33 situation for purposes of this subparagraph.

34 (C) To attempt to locate a parent or guardian of a child who is
35 the subject of dependency court proceedings.

36 (D) To obtain information about the background of a nonminor
37 who has petitioned to reenter foster care under subdivision (e) of
38 Section 388, in order to assess the appropriateness and safety of
39 placing the nonminor in a foster care or other placement setting
40 with minor dependent children.

1 (E) To assess the appropriateness ~~and safety~~ of placing a child
2 who has been detained or is a dependent of the court in a ~~licensed~~
3 ~~foster family home, group home, or state-licensed foster home.~~
4 *state-licensed foster home, a certified home of a licensed foster*
5 *family agency, or a licensed group home.*

6 (2) Any time that a child welfare agency initiates a criminal
7 background check through the California Law Enforcement
8 Telecommunications System for the purpose described in
9 subparagraph (B) of paragraph (1), the agency shall ensure that a
10 state-level fingerprint check is initiated within 10 calendar days
11 of the check, unless the whereabouts of the subject of the check
12 are unknown or the subject of the check refuses to submit to the
13 fingerprint check. The Department of Justice shall provide the
14 requesting agency a copy of all criminal history information
15 regarding an individual that it maintains pursuant to subdivision
16 (b) of Section 11105 of the Penal Code.

17 (b) Criminal justice personnel shall cooperate with requests for
18 criminal history information authorized pursuant to this section
19 and shall provide the information to the requesting entity in a
20 timely manner.

21 (c) Any law enforcement officer or person authorized by this
22 section to receive the information who obtains the information in
23 the record and knowingly provides the information to a person not
24 authorized by law to receive the information is guilty of a
25 misdemeanor as specified in Section 11142 of the Penal Code.

26 (d) Information obtained pursuant to this section shall not be
27 used for any purposes other than those described in subdivision
28 (a).

29 (e) Nothing in this section shall preclude a nonminor petitioning
30 to reenter foster care or a relative or other person living in a
31 relative's home from refuting any of the information obtained by
32 law enforcement if the individual believes the state- or federal-level
33 criminal records check revealed erroneous information.

34 (f) (1) A state or county welfare agency may submit to the
35 Department of Justice fingerprint images and related information
36 required by the Department of Justice of parents or legal guardians
37 when determining their suitability for reunification with a
38 dependent child subject to the jurisdiction of the juvenile court,
39 for the purposes of obtaining information as to the existence and
40 content of a record of state or federal convictions and state or

1 federal arrests, as well as information as to the existence and
2 content of a record of state or federal arrests for which the
3 Department of Justice establishes that the person is free on bail or
4 on his or her own recognizance pending trial or appeal. Of the
5 information received by the Department of Justice pursuant to this
6 subdivision, only the parent's or legal guardian's criminal history
7 for the time period following the removal of the child from the
8 parent or legal guardian shall be considered.

9 (2) A county welfare agency or county probation office may
10 submit to the Department of Justice fingerprint images and related
11 information required by the Department of Justice of nonminors
12 petitioning to reenter foster care under Section 388, in order to
13 assess the appropriateness and safety of placing the nonminor in
14 a foster care or other placement setting with minor dependent
15 children.

16 (3) When received, the Department of Justice shall forward to
17 the Federal Bureau of Investigation requests for federal summary
18 criminal history information received pursuant to this subdivision.
19 The Department of Justice shall review the information returned
20 from the Federal Bureau of Investigation and respond to the state
21 or county welfare agency.

22 (4) The Department of Justice shall provide a response to the
23 state or county welfare agency pursuant to subdivision (p) of
24 Section 11105 of the Penal Code.

25 (5) The state or county welfare agency shall not request from
26 the Department of Justice subsequent arrest notification service,
27 as provided pursuant to Section 11105.2 of the Penal Code, for
28 individuals described in this subdivision.

29 (6) The Department of Justice shall charge a fee sufficient to
30 cover the costs of processing the request described in this
31 subdivision.

32 (7) This subdivision shall become operative on July 1, 2007.

33 (g) A fee, determined by the Federal Bureau of Investigation
34 and collected by the Department of Justice, shall be charged for
35 each federal-level criminal offender record information request
36 submitted pursuant to this section and Section 361.4.

37 (h) (1) A county child welfare agency may submit to the
38 Department of Justice fingerprint images and related information
39 required by the Department of Justice of an individual who has
40 received a criminal record exemption from the State Department

1 of Social Services pertaining to a licensed or certified foster home
2 for the purposes of obtaining information as to the existence and
3 content of a record of state or federal convictions and state or
4 federal arrests and also information as to the existence and content
5 of a record of state or federal arrests for which the Department of
6 Justice establishes that the person is free on bail or on his or her
7 own recognizance pending trial or appeal. Except as otherwise
8 limited by state or federal law, a county child welfare agency that
9 requests criminal record information pursuant to this section shall
10 request from the State Department of Social Services any additional
11 information the department used in making the determination to
12 grant the exemption.

13 (2) When received, the Department of Justice shall forward to
14 the Federal Bureau of Investigation each request for federal
15 summary criminal history information received pursuant to this
16 section. The Department of Justice shall review the information
17 returned from the Federal Bureau of Investigation and compile
18 and disseminate a response to the county child welfare agency.

19 (3) The Department of Justice shall provide a state or federal
20 level response to the county child welfare agency pursuant to
21 paragraph (1) of subdivision (m) of Section 11105 of the Penal
22 Code.

23 (4) The county child welfare agency may request from the
24 Department of Justice subsequent notification service, as provided
25 pursuant to Section 11105.2 of the Penal Code, for persons
26 described in paragraph (1) for whom the county has requested
27 criminal record information.

28 (5) The Department of Justice shall charge a fee sufficient to
29 cover the reasonable cost of processing the request described in
30 this subdivision.

31 SEC. 6. Section 16504.7 is added to the Welfare and
32 Institutions Code, to read:

33 16504.7. (a) The department shall provide to a county child
34 welfare agency a list of each person who has received a criminal
35 records exemption pursuant to subdivision (g) of Section 1522 of
36 the Health and Safety Code related to a licensed or certified foster
37 home so that the county may assess the appropriateness ~~and safety~~
38 of placing a child who has been detained or is a dependent of the
39 court in the licensed or certified foster home with which the
40 individual is associated.

1 (b) Except as otherwise limited by state or federal law, the
2 department shall make available to the county child welfare agency,
3 summary information used in making the determination to grant
4 the exemption. The department shall consult with the Department
5 of Justice, counties, and other interested stakeholders to ensure
6 that information is shared expeditiously and in accordance with
7 state and federal law.

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